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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re JULIUS L., a Person Coming Under
the Juvenile Court Law.

MERCED COUNTY HUMAN
SERVICES AGENCY,

Plaintiff and Respondent,

v.

JIMMY L.,

Defendant and Appellant.

F069213

(Super. Ct. No. JP000711)

OPINION

THE COURT*

APPEAL from orders of the Superior Court of Merced County. Brian L. McCabe,
Judge.

Jesse F. Rodriguez, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

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* Before Cornell, Acting P.J., Gomes, J., and Kane, J.

Jimmy L. (father) appealed from a March 2014 order terminating parental rights (Welf. & Inst. Code, § 366.26) to his one-year-old son Julius.¹ After reviewing the entire record, father's court-appointed appellate counsel informed this court he could find no arguable issues to raise on father's behalf. Counsel requested and this court granted leave for father to personally file a letter setting forth a good cause showing that an arguable issue of reversible error did exist. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844.)

Father has since submitted a letter in which he accuses his trial attorney of ineffectiveness and finds fault with respondent Merced County Human Services Agency (agency). According to father, his attorney should have subpoenaed either witnesses or records to show that father's probation officer prevented him from participating in court-ordered alcohol and drug services. In addition, the agency allegedly should have placed Julius with his aunt. Father's letter otherwise neither addresses the termination proceedings nor sets forth a good cause showing that any arguable issue of reversible error at the termination hearing does exist. (*In re Phoenix H., supra*, 47 Cal.4th at p. 844.)

Accordingly, we will dismiss.

PROCEDURAL AND FACTUAL SUMMARY

The superior court exercised its dependency jurisdiction over infant Julius and removed him from parental custody in February 2013. At the time of his birth, Julius and his mother tested positive for marijuana and methamphetamine. Father was aware of the mother's drug use during her pregnancy and yet he did not ask her to seek treatment. He also had a history of drug abuse and drug-related arrests. He was on formal probation

¹ All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

until November 2014 for violating Health and Safety Code section 11366 (keeping a place to sell a controlled substance).

At the February 2013 hearing, the court removed Julius from parental custody and granted only father reunification services. Father's court-ordered services included a parenting program, substance abuse counseling and random drug testing. At the time, an evaluation of a paternal relative's home for placement of Julius was pending.

Over the next six months, father made minimal progress towards reunification. He began attending a substance abuse program called "Behavioral Intervention" in February 2013 but was discharged in June 2013 due to excessive absences. In the meantime, he had multiple positive drug tests and also failed to drug test on several occasions. Later in June 2013, he attended an assessment for another outpatient program. However, he did not participate in the program because his probation officer told him he was required under the terms of his probation to complete *residential* drug treatment. According to father, probation would not approve an outpatient treatment program and would treat outpatient treatment as a probation violation. Probation tried to place him in a residential program, but a knee injury father had allegedly disqualified him from placement. Father was on another waitlist for inpatient drug treatment as of October 2013.

Father also started but did not complete parenting education. At most, he participated in weekly visits with Julius.

Meanwhile, in March 2013, Julius's paternal relative was not cleared for placement due to a non-exemptible crime.

Following an October 2013 contested review hearing, the court found it could not order Julius returned to father's custody because it would create a substantial risk of detriment to the child. Having also found that the agency provided reasonable services and that father's progress had been minimal, the court terminated reunification services for father. The court in turn set a permanency planning hearing to select and implement a

permanent plan for Julius. Although the court gave father notice of his right to challenge the setting order by seeking writ review in this court, father did not pursue such relief.

A report prepared for the permanency planning hearing disclosed that the paternal relative would have to complete an exemption process before the agency could consider placing Julius with her. At the hearing, the court terminated parental rights, having found by clear and convincing evidence that Julius was likely to be adopted.

DISCUSSION

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is up to an appellant to raise claims of reversible error or other defect and present argument and authority on each point made. If an appellant does not do so, the appeal should be dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Here, father does not raise any claim of error or other defect against the termination order from which he appeals.

As mentioned above, father claims his attorney should have subpoenaed either witnesses or records to show that father's probation officer prevented him from participating in court-ordered alcohol and drug services. Father fails to identify, however, how this would have made a difference in the case. In addition, he ignores the evidence in the record regarding his probation condition as well as the evidence that he was not regularly participating in services before the probation officer's warning. Further, father overlooks his forfeiture of any claim that his attorney was ineffective. By failing to petition for extraordinary writ relief on ineffectiveness grounds in this court after the superior court terminated reunification services and set the permanency planning hearing, father forfeited the opportunity to raise his attorney's alleged incompetence on appeal from the order terminating parental rights. (§ 366.26, subd. (l).)

To the extent father blames the agency for not placing Julius with his paternal relative, father overlooks the evidence that the relative had to go through an exemption

process due to a criminal conviction in the relative's past. While father claims the relative had no such history, he does not point to any supporting evidence in the record.

We therefore conclude father has failed to raise an arguable issue regarding either his trial attorney's performance or the agency's conduct regarding Julius's placement.

DISPOSITION

This appeal is dismissed.